

**BOARD OF EQUALIZATION**

**SALES AND USE TAX REGULATIONS**

**Regulation 1701. "TAX-PAID PURCHASES RESOLD."**

*Reference:* Section 6012(a), Revenue and Taxation Code.

**(a) PROCEDURE IN GENERAL.** A retailer who resells tangible personal property before making any use thereof (other than retention, demonstration or display while holding it for sale in the regular course of business) may take a deduction of the purchase price of the property if, with respect to its purchase, he has reimbursed his vendor for the sales tax or has paid the use tax. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

The deduction under the caption "Tax-paid purchases resold" must be taken on the retailer's return in which his sale of the property is included. If the deduction is not taken in the proper quarter, a claim for refund of tax must be filed.

**(b) CIRCUMSTANCES WARRANTING USE.** This procedure should be used in any of the following circumstances:

(1) The retailer when making the purchase intends to use the property rather than resell it, but later resells it before making any use thereof.

(2) The particular property is of a kind not ordinarily sold or stocked by the retailer, and not customarily covered by resale certificates given to his vendors and is the subject of an unusual sale, such as a sale for the accommodation of a customer, employee, etc.

(3) The particular property is generally for the use of the retailer, but a small portion is incidentally resold.

(4) Through error, sales tax reimbursement or use tax is paid by the retailer with respect to the purchase price of the property purchased for resale in the regular course of business.

**(c) PARTICULAR APPLICATION. "STANDBY SERVICE".** Property purchased "tax-paid" by a retailer and placed in "Standby Service", located at the place of intended use and committed to that use, is considered used sufficiently to preclude a tax-paid purchase deduction when sold, even though never physically used there and ultimately removed and sold.

*History:* Effective July 1, 1939.

Amended June 29, 1945.

Amended and renumbered August 5, 1969, effective September 6, 1969.

Amended June 22, 1983, effective October 6, 1983. In last paragraph of subsection (a), deleted "should" and inserted "must"; and added last sentence.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*